

REMARKS

The Specification has been amended. Claims 1, 9, and 15 have been amended, and Claims 28 - 29 have been added. No new matter has been introduced with these amendments or added claims, all of which are supported in the specification as originally filed. Claims 2 - 8, 10 - 14, and 16 - 27 have been cancelled from the application without prejudice. Applicants are not conceding in this application that the claims that were amended and the claims that were cancelled are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are directed toward facilitating expeditious prosecution of the application and allowance of all remaining claims at an early date. Applicants respectfully reserve the right to pursue the now-cancelled claims and other claims in one or more continuations and/or divisional patent applications. Claims 1, 9, 15, and 28 - 29 are now in the application.

I. Objection to the Claims

Page 2 of the Office Action dated March 20, 2007 (hereinafter, "the Office Action") states that Claims 25 and 26 are objected to because of informalities. These claims have been cancelled from the application without prejudice, as noted above, rendering the objection moot.

II. Rejection Under 35 U.S.C. §102(a)

Page 2 of the Office Action states that Claims 1 - 17, 19 - 22, and 24 - 27 are rejected

under 35 U.S.C. §102(a) as being anticipated by U. S. Patent Publication 2003/0055908 to Brown. This rejection is respectfully traversed with regard to the claims as currently presented.

Independent Claim 1, as currently presented, specifies:

A method of using policy information in responding to arrival of instant messages, comprising steps of:

defining, by an instant messaging (“IM”) user, policy information specifying criteria for responding to arrival of instant messages, wherein the policy information comprises a list of selected application programs which are each distinct from an instant messaging application used by the IM user and which are each executable on a computing device of the IM user;

receiving an instant message from an IM sender who is not already participating in an IM session with the IM user;

programmatically determining, responsive to the receiving, whether any of the selected application programs in the list are currently executing on the computing device of the IM user; and

responding to the arrival of the instant message by opening a new window on a graphical user interface of the computing device of the IM user and displaying the instant message therein if the programmatically determining step has a negative result, or by adding an icon representing the instant message to an already-open window but not displaying the instant message itself if the programmatically determining step has a positive result, wherein:

the already-open window comprises one of an already-open buddy list window that visually depicts a list of each IM partner from an IM address book of the IM user or an already-open status window that visually depicts a list of each currently-active IM partner of the IM user;

the icon is added in association with a representation, in the visually-depicted list, of the IM sender; and

the icon visually indicates that the instant message is available for on-request display and can be activated by the IM user to cause the on-request display of the instant message. (emphasis added)

This is described in Applicants’ specification on p. 12, lines 7 - 9, “... the user might define a policy that pops up a new IM window for arriving instant messages except when one

of a list of selected applications is currently active on the recipient's computing device ..." and p. 18, lines 5 - 6, "... conditions might test factors such as what the recipient is currently doing (which may be specified in terms of the active applications on the recipient's computing device ...)". See also p. 14, lines 4 - 7, referring to a user-defined status such as "temporarily distracted" that is applicable when a user "Joe" is "actively using the device on which his IM client runs, but [is] temporarily involved in some activity that will prevent him from responding immediately to incoming instant messages". Page 15, lines 14 - 16 state that "[i]n addition [to using a user-defined status level of the type shown in **Fig. 4**] ...", criteria can be defined to suppress pop-up of IM windows. Page 17, lines 6 - 9 state that "User-defined status levels may be used to control responses to arriving instant messages ... in addition to indicating how the IM user should be represented to other IM users ...".

Applicants respectfully submit that Brown fails to disclose (at least) the above-underlined limitations of Claim 1. For example, while Brown's **Fig. 15** shows tabs **194, 196** added to a window **190**, these tabs are not added responsive to "programmatically detecting ... whether any of the selected application programs [from a policy list] are currently executing on the computing device of the IM user" (in contrast to lines 11 - 12 of Applicants' Claim 1), but instead are apparently added because a priority of the corresponding incoming message meets a priority threshold that indicates "one-line at bottom of open window" (see **Fig. 12**, numbers **4** and **5** within reference number **162**). And, message window **190** is titled "MESSAGING APPLICATION" (see **FIG. 15**), in which is depicted a message request **192** that "illustrates a

regular window request message from ‘user G’ under the subject of lunch”. That is, message request **192** is apparently a newly-arrived message, pertaining to lunch, which has been displayed to the recipient. Accordingly, message window **190** is distinct from “an already-open buddy list window that visually depicts a list of each IM partner from an IM address book of the IM user or an already-open status window that visually depicts a list of each currently-active IM partner of the IM user” specified on lines 20 - 23 of Applicants’ Claim 1.

Accordingly, Claim 1 is deemed patentable over Brown. Added independent Claims 28 and 29 specify analogous limitations to those of Claim 1, and are therefore deemed patentable over Brown as well.

Applicants also note that some limitations currently presented in Claim 1 are similar to those of now-cancelled Claim 18, which was rejected using Horvitz (as noted below). Applicants respectfully submit that “User Activity”, as represented in Horvitz’s **Fig. 34**, and “Current User Activity”, as represented in the Bayesian network depicted in Horvitz’s **Fig. 35**, is not the same as “a list of selected application programs [defined by a user as policy information; see lines 4 - 6 of Claim 1] ... which are each executable on a computing device of the IM user”, as specified by Applicants in lines 6 - 8 of Claim 1 or “programmatically determining ... whether any of the selected application programs in the list are currently executing ...”, as specified by Applicants in lines 11 - 12 of Claim 1. The “Recent Application History” depicted in **Figs. 34 - 35** of Horvitz is also not “a list of selected application programs

[defined by a user as policy information] ...”, in contrast to the limitations specified in lines 4 - 6 of Claim 1. Furthermore, Applicants respectfully submit that their claimed “list of selected application programs ...”, as specified on lines 6 - 8 of Claim 1, and use of this list in the “programmatically determining” specified in lines 11 - 12 of Claim 1, is distinct from Horvitz’s disclosed approach of using a Bayesian network to infer a user’s activity. (See para. [0263], lines 7 - 9, discussing “classes of evidence that can be employed to assess a user’s activity or his or her focus of attention, as illustrated in **FIG. 34**.”. See also para. [0263], lines 9 - 12, emphasis added, “A Bayesian network can then be utilized for performing an inference about a user’s activity. An example of such a network is depicted in **FIG. 35**.”.) Accordingly, Applicants respectfully submit that Horvitz does not teach limitations of independent Claim 1 (and similarly, Claims 28 and 29).

In view of the patentability of the independent claims, Applicants respectfully submit that their dependent Claims 9 and 15 are patentable over Brown. The Examiner is therefore respectfully requested to withdraw the §102 rejection of all remaining claims as currently presented.

III. Rejections Under 35 U.S.C. §103(a)

Page 6 of the Office Action states that Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of U. S. Patent 7,039,949 to Cartmell, and Page 7 of the Office Action states that Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of U. S. Patent Application 2003-0046421 to Horvitz.

These claims have been cancelled from the application without prejudice, as noted earlier, rendering this rejection moot.

IV. Conclusion

In conclusion, Applicants respectfully request reconsideration of the pending rejected claims, withdrawal of all presently outstanding objections and rejections, and allowance of all remaining claims at an early date.

Respectfully submitted,

/Marcia L. Doubet/

Marcia L. Doubet
Attorney for Applicants
Reg. No. 40,999

Customer Number for Correspondence: 43168

Phone: 407-343-7586

Fax: 407-343-7587